

November 4, 2003

MEMORANDUM

TO: Purchasing Offices
Departments, Institutions, Agencies
Commonwealth of Virginia

FROM: Ron Bell
Director

SUBJECT: Procurement Information Memoranda (PIM) #98-014

Enclosed is PIM #98-014, effective November 12, 2003, representing changes to the September 1998 edition of the *Agency Procurement and Surplus Property Manual (APSPM)*. The changes are noted in the table below. All changes to the *APSPM*, including PIM #98-014, are incorporated into a web-based *APSPM*, which is downloadable from the eVA and Division of Purchases and Supply web sites at www.eva.state.va.us and www.dgs.state.va.us/dps, respectively. The location of text changes is indicated by an arrow in the margin (—→) with the corresponding PIM number identified next to the changes.

To print a hard copy of the manual, save the Chapters, Appendices, etc. to your hard drive and print from the hard drive. Printing directly from the website will result in lost formatting. Use the “whole APSPM” for text searches.

Appendix C contains a log in which to list the PIM number and date of revision. This letter and the corresponding PIM #98-014 should be filed in the back of the Appendix C log.

| Section | Summary of Changes |
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| 1.2 e (2) | Under “Designated signature authority is required for the following documents:” the last sentence is changed and a new sentence is added, to read: The agency head may delegate approval authority in writing, for sole source procurements under \$50,000 to the chief purchasing officer or a direct report to the agency head. Over \$50,000 the agency head may delegate approval authority in writing, to a direct report to the agency head. |
| 2.1 c (1)(a) | This section clarifies (a) that Contract Office Services does not include temporary services. |

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| 3.16 c | The policy on Limitation on Submitting Bid for Same Procurement has changed and the paragraph heading is changed to read: Subsequent/Additional Bid/Proposal for Same Procurement. The policy on acceptance of multiple bids or proposals submitted by the same bidder or offeror has changed so that the traditional paper bid/proposal process is consistent with the electronic process. Bidders or offerors who submit a subsequent bid/proposal, unless specifically identified as an amendment to a previously submitted bid/proposal, shall constitute an additional bid/proposal submitted by the same bidder or offeror on the same solicitation. |
| 3.18 | The “Note” in parenthesis is deleted and the first sentence is changed to read: All solicitation, addenda and award actions (including emergency and sole source awards) over \$30,000 shall be posted on the DGS single electronic procurement web site (<i>Code of Virginia</i> , § 2.2-4301). |
| 3.18 b | The first three sentences have been re-worded to read: IFB solicitation notices over \$50,000 may also be published in a newspaper of general circulation at least ten (10) days prior to the date set for receipt of bids. Prebid conferences or site visits should be indicated when applicable. |
| 4.22 d (2) | The reference to the <i>Code of Virginia</i> in this section was corrected to show reference to the 2003 Acts of Assembly, Chapter 1042, § 4-5.04c. |
| 8.1 | The heading is changed to read: Approval for Sole Source Procurements to \$50,000 . The first sentence is changed to read: All sole source procurements for non-technology goods and services to \$50,000 must be approved in advance by the agency head or designee, which shall be the chief purchasing officer or a direct report to the agency head [see 1.2e(2)]. |
| 8.2 | The first sentence is re-worded as follows: Procurements Over \$50,000 . All sole source procurements for non-technology goods and services over \$50,000 must be approved by DGS/DPS prior to commencement of the actual procurement using the Sole Source Procurement Approval Request form found in Annex 8-C. Add a second sentence to 8.2 as follows: The agency head or designee, which shall be a direct report to the agency head, must sign the Sole Source Procurement Approval Request form for Non-Technology Goods and Services [see 1.2e(2)]. |
| 14.9 b | If an agency or institution chooses to place an order in eVA for a category excluded from processing through eVA as stated in 14.9 b, the agency will pay the 1% transaction fee. The proper purchase order category for excluded commodities must be used. A last sentence is added to 14.9 b under Exclusions, as follows: Agencies and institutions shall use the R02, S02, P02, or E02 eVA Purchase Order Category, as appropriate, to identify such purchases when processed through eVA. |
| 14.9 b 10. | The exclusion for grants and research contracts to public bodies and non-profit organizations is further clarified. Agencies and institutions that provide grants or provide research contracts do not need to process those orders through eVA. The expenditure of grant or research contract funds received by agencies and institutions are not exempt from processing through eVA. For example, VDOT provides grant funds to VPI&SU for the study of “smart roads.” The transaction between VDOT and VPI&SU is exempt from processing through eVA. The transaction between VPI&SU and a contractor to do the work is not exempt and the order would be processed through eVA using the appropriate R01, S01, P01, or E01 category. This exclusion is changed to read: Grant funds provided by agencies and institutions to public bodies or non-profit organizations or research contracts provided by agencies and institutions to public bodies or non-profit organizations. |

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| 14.9 b 11. | The exclusion for Medical Services procurements is further clarified. Patient laboratory services is no longer excluded from processing through eVA. |
| Annex 8-A | The flow chart is modified to show approval for sole source procurements may be delegated by the agency head as per 1.2 e. (2). |
| Annex 8-B | The sole source checklist and sole source procurement instructions are revised to show approval for sole source procurements may be delegated by the agency head. |
| Annex 8-C | The sole source approval form for non-technology goods and services is revised. |
| Appendix A | A definition for “Written, writing, writings, and in writing” has been added to clarify that a written signature or documentation in writing may be electronic or by other means (<i>Code of Virginia</i> , § 1-13.32). |

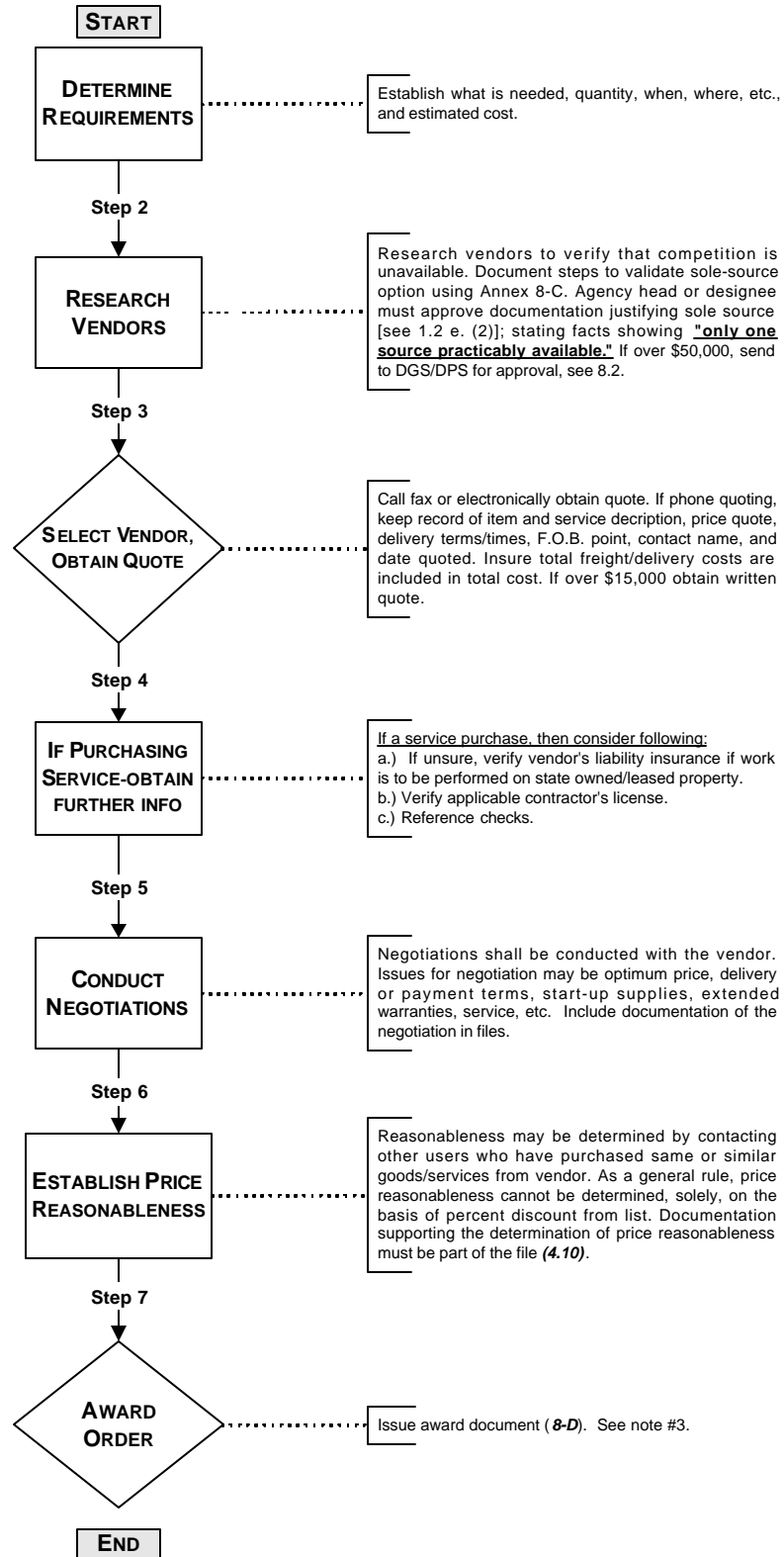
If you should have questions about the changes, please contact Nancy M. Davis at 804-786-0323 or ndavis@dgs.state.va.us.

- 1.2 e (2) **Designated signature authority is required for the following documents:** purchase requisitions submitted to DGS/DPS, agency purchase orders, contracts, *VBO* waiver, multi-colored printing, waiver of a prebid or preproposal conference, contract modification, and written determinations to support the use of emergency and competitive negotiation procedures. The agency head may delegate approval authority in writing, for sole source procurements under \$50,000 to the chief purchasing officer or a direct report to the agency head. Over \$50,000 the agency head may delegate approval authority in writing, to a direct report to the agency head.
- 2.1 c (1) (a) Contract Office Services (does not include temporary employment services) - Administrative Support Personnel, Clerical, Secretarial, Order Takers, Customer Service Representatives, etc.
- 3.16 c. **Subsequent/Additional Bid/Proposal for Same Procurement.** Submission of a subsequent bid/proposal, unless specifically identified as an amendment to a previously submitted bid/proposal, shall constitute an additional bid/proposal submitted by the same bidder or offeror on the same solicitation. (See 3.1 h for information on amending or withdrawing bids/proposals and *Code of Virginia*, § 2.2-4330 C. for Withdrawal of bid due to error.)
- 3.18 **Publicly Posted Notices.** All solicitation, addenda and award actions (including emergency and sole source awards) over \$30,000 shall be posted on the DGS single electronic procurement web site (*Code of Virginia*, § 2.2-4301). The designated web site is www.eva.state.va.us. Notices shall be posted on the eVA web site under VBO Ads.
- 3.18 b. IFB solicitation notices over \$50,000 may also be published in a newspaper of general circulation, at least ten (10) days prior to the date set for receipt of bids. Prebid conferences or site visits should be indicated when applicable. When canceling or amending a solicitation, a copy of the notice or addendum must be publicly posted on the eVA web site under VBO Ads.
- 4.22 d (2) **Agency Head Responsibility.** Agency heads are responsible for assuring that the use and control of the services of private consultants is properly justified in terms of agency mission, programs, priorities, and funding. As required by 2003 *Acts of Assembly*, Chapter 1042, §4-5.04c, Use Of Consulting Services: All state agencies and institutions of higher education shall make a determination of “return on investment” as part of the criteria for awarding contracts for consulting service.
- 8.1 **Approval for Sole Source Procurements to \$50,000.** All sole source procurements for non-technology goods and services to \$50,000 must be approved in advance by the agency head or designee, which shall be the chief purchasing officer or a direct report to the agency head [see 1.2e(2)]. The written determination, using the Sole Source Procurement Approval Request form in Annex 8-C, documenting that there is only one source practicably available for that which is to be procured, must be included in the procurement file. In addition, a memorandum must be attached to the request which addresses the four points shown in 8.2. The writing shall document the basis for the determination, which should include any market analysis conducted in order to ensure that the good or service required was practicably available from only one source.
- 8.2 **Procurements Over \$50,000.** All sole source procurements for non-technology goods and services over \$50,000 must be approved by DGS/DPS prior to commencement of the actual procurement using the Sole Source Procurement Approval Request form found in Annex 8-C. The agency head or designee, which shall be a direct report to the agency head, must sign the Sole Source Procurement Approval Request form for Non-Technology Goods and Services [see 1.2e(2)]. Sole source procurements that originally included a renewal provision, for which approval for multi-years was obtained, do not need to be forwarded for approval until expiration of the term for which approval was obtained. In addition, a memorandum must accompany the request form, which addresses the following four points:
- Explain why this is the only product or service that can meet the needs of the purchasing agency.
 - Explain why this vendor is the only practicably available source from which to obtain this product or service.
 - Explain why the price is considered reasonable.
 - Describe the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

Annex 8 -A

SOLE SOURCE PROCESS (CODE OF VA § 2.2-4303E)

For Goods and Non-professional Services when competition is not practicably available.



Annex 8 -B**SOLE SOURCE CHECKLIST**

PIM 98-014

- _____ 1. Written determination approved by the agency head or designee, as provided in 8.1, for procurements to \$50,000. The procurement must address the four points shown in 8.2.
- _____ 2. Approval for sole source, non-technology procurements over \$50,000 must be signed by the agency head or designee, as provided in 8.2 and sent to DGS/DPS for approval prior to commencement of the actual procurement.
- _____ 3. Noncompetitive negotiation shall be conducted. The file shall include the results of the negotiations.
- _____ 4. Evidence that a determination of price reasonableness was conducted.
- _____ 5. Sole source notice of award posted for purchases over \$30,000.
- _____ 6. PO or contract issued.

Annex 8-C**Sole Source Procurement Approval Request****Non-Technology Goods and Services**

All requests for non-technology sole source purchases must meet the criteria established under § 2.2-4303 E. of the *Code of Virginia*. The agency head or designee, as required in 8.1 or 8.2, must sign this form. The Department of General Services/Division of Purchases and Supply (DGS/DPS) must review and approve all non-technology requests exceeding \$50,000 before issuance of any contract or purchase order. In addition, the agency must also (1) assign an identifying number to the request, (2) attach a brief description of the contract, and (3) attach the sole source justification in accordance with the instructions contained in 8.1 or 8.2 and Annex 8-C, *Agency Procurement and Surplus Property Manual*.

Agency Code _____ Request Number _____ Date _____

Agency Name _____

Agency Head Signature _____

I certify that I am the agency head or designee and I am authorized to approve this request.

Print Agency Head Name _____

Contact Person _____ Telephone Number _____

Total Amount of Sole Source \$ _____ Facsimile Number _____

Commodity Code _____ Description _____

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Division of Purchases and Supply

- ☐ **Approved**
- ☐ **Disapproved**
- ☐ **More information needed (specify and return to agency)**

Signature _____ Date _____

Note: This form must be filed with the contract/purchase order. Agencies and institutions are delegated authority to make contract award after appropriate approval. (Purchase using noncompetitive negotiation.)

- 14.9 b **Exclusions.** Exclusions, regardless of dollar value, include the procurement types listed below. At the option of the agency or institution, purchases of the following types of goods and services may be placed through eVA, but the agency will pay the 1% transaction fee, capped at \$500. Agencies and institutions shall use the R02, S02, P02, or E02 eVA Purchase Order Category, as appropriate, to identify such purchases when processed through eVA .
- 14.9 b. 10. Grant funds provided by agencies and institutions to public bodies or non-profit organizations or research contracts provided by agencies and institutions to public bodies or non-profit organizations.
- 14.9 b. 11. Medical (Health Care) Services when provided by an individual licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition.

Appendix A:

Written; writing; writings; in writing: The words “written,” “writing,” “writings,” and “in writing” shall include any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Chapter 42.1 (§et seq.) of Title 59.1 is or is not affixed. (*Code of Virginia*, § 1-13.32)